



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

DEC 08 2008

REPLY TO THE ATTENTION OF:

AE-17J

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Wayne Pruitt
General Manager
Haverhill North Coke Company
2446 Gallia Pike
Franklin Furnace, Ohio 45629

Re: Notice and Finding of Violation at Haverhill North Coke Company, Franklin Furnace

Dear Mr. Pruitt:

This is to advise you that the U. S. Environmental Protection Agency has determined that Haverhill North Coke Company's (Haverhill North Coke's) facility at 2446 Gallia Pike, Franklin Furnace, Ohio, is in violation of the Clean Air Act (CAA) and associated state or local pollution control requirements. A list of the requirements violated is provided below. We are today issuing to you a Notice of Violation and Finding of Violation (NOV/FOV) for these violations.

Haverhill North Coke's PSD Permit to Install (PTI) limits emissions of particulate matter (PM), particulate matter 10 (PM10), carbon monoxide (CO), nitrogen oxides (NOx), sulfur dioxide (SO₂) and volatile organic matter (VOM). The purpose of these emissions limits is to help protect the public from unhealthy exposures to criteria pollutants, emissions of which contribute to respiratory problems, lung damage and premature deaths.

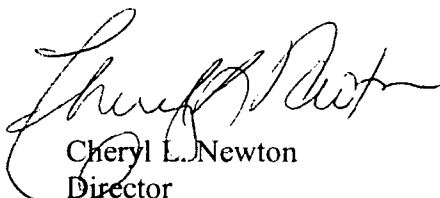
Based on Excess Emissions Report (EER) data submitted for emissions unit P901, Haverhill North Coke has violated its 3-hour rolling SO₂ emission limit for six fiscal quarters since 2006. Also, for twelve quarters since the CEM was certified in 2005, Haverhill North Coke has violated its PTI requirement to continuously operate its SO₂ continuous emission monitor (CEM). Additionally, Haverhill North Coke failed to immediately report a baghouse malfunction observed by Portsmouth Local Air Agency on July 6, 2008.

Violation of these requirements is also a violation of the Ohio State Implementation Plan (SIP), as well as Title I, Part C of the CAA and its associated regulations which require compliance with the terms and conditions of PSD permits. Accordingly, Haverhill North Coke has violated Title I of the CAA and its implementing regulations.

Section 113 of the CAA gives us several enforcement options to resolve these violations, including: issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, and bringing a judicial criminal action. Section 113 of the CAA provides you with the opportunity to request a conference with us about the violations alleged in the NOV/FOV. A conference should be requested within 10 days following receipt of this notice and any conference should be held within 30 days following receipt of this notice. This conference will provide you a chance to present information on the identified violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. Please plan for your facility's technical and management personnel to take part in these discussions. You may have an attorney represent you at this conference.

The EPA contact in this matter is Gina Harrison. You may call her at (312) 353-6956 if you wish to request a conference. EPA hopes that this NOV/FOV will encourage Haverhill North Coke's compliance with the requirements of the CAA.

Sincerely,



Cheryl L. Newton
Director
Air and Radiation Division

Enclosure

cc: John Paulian, Division of Air Pollution Control
Ohio Environmental Protection Agency

Cindy Charles, Director, Air Pollution Unit
Portsmouth City Health Department

**United States Environmental Protection Agency
Region 5**

IN THE MATTER OF:

Haverhill North Coke Company
Franklin Furnace, Ohio

Proceedings Pursuant to
the Clean Air Act,
42 U.S.C. §§ 7401 et seq.

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(**FINDING OF VIOLATION**
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NOTICE AND FINDING OF VIOLATION

Haverhill North Coke Company (you or Haverhill North Coke) owns and/or operates a metallurgical coke plant, located at 2446 Gallia Pike, Franklin Furnace, Ohio (facility).

The U. S. Environmental Protection Agency is sending this Notice of Violation and Finding of Violation (NOV/FOV or Notice) to notify you that sulfur dioxide (SO₂) emissions recorded by Continuous Emission Monitor (CEM) S239 from emissions unit P901 at your facility have been in excess of the limits specified in your PSD permit, and the Ohio State Implementation Plan (SIP). Additionally, excessive monitor downtime as recorded in Excess Emission Reports (EERs) is a violation of CEM standards required by your PSD permit. These exceedances and deviations constitute violations of the Clean Air Act (the Act or CAA).

Section 113 of the Act provides you with the opportunity to request a conference with us to discuss the violations alleged in the NOV/FOV. This conference will provide you a chance to present information on the identified violations, any efforts you have taken to comply, and the steps you will take to prevent future violations. Please plan for the facility's technical and management personnel to take part in these discussions. You may have an attorney represent and accompany you at this conference.

Explanation of Violations

The permits and permit conditions relevant to this NOV/FOV are as follows:

Applicable Permits and Regulations:

1. Section 110 of the Act, 42 U.S.C. § 7410, requires States to adopt, and submit to EPA for approval, SIP's providing for the implementation, maintenance, and enforcement of the National Ambient Air Quality Standards (NAAQS) promulgated by EPA pursuant to Section 109 of the Act, 42 U.S.C. § 7409. EPA has promulgated NAAQS for, among other pollutants, particulate matter and sulfur dioxide (SO₂).

2. Pursuant to 40 C.F.R. § 52.23, failure to comply with any approved regulatory provision of a SIP, or with any permit condition issued pursuant to approved or promulgated regulations for the review of new or modified stationary or indirect sources, renders the person so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement under Section 113 of the Act, 42 U.S.C. § 7413.
3. On November 1, 1982, the Administrator of EPA approved OAC Rule 3745-15 as part of the federally enforceable SIP for the State of Ohio. 47 Fed. Reg. 43377. OAC Rule 3745-15 regulates general provisions, including but not limited to malfunctions at stationary sources, scheduled maintenance, and reporting.
4. OAC Rule 3745-15-06 requires in the event that any emission source, air pollution control equipment, or related facility breaks down in such a manner as to cause the emission of air contaminants in violation of any applicable law, the source shall immediately notify the Ohio Environmental Protection Agency district office or delegate agency of such failure or breakdown.
5. 40 C.F.R. § 60.13(e) provides that with the exception of system breakdowns, repairs, calibration checks, and zero and span adjustments required, all continuous monitoring systems shall be in continuous operation and shall meet minimum frequency of operation requirements.
6. Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3), authorizes the Administrator to initiate an enforcement action whenever, among other things, the Administrator finds that any person has violated or is in violation of a requirement or prohibition of Title V of the CAA, or any rule or permit promulgated, issued or approved under Title V of the CAA.
7. 40 C.F.R. § 63.6(e)(1)(i) requires that at all times, including periods of startup, shutdown, and malfunction, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions.

Factual Background

8. Haverhill North Coke owns and/or operates a metallurgical coke plant at 2446 Gallia Pike, Franklin Furnace, Ohio (facility).
9. Ohio Environmental Protection Agency (OEPA) issued PSD Permit to Install 07-00511 (PSD Permit) to the facility on December 11, 2003.
10. At the facility Haverhill North Coke operates one 60-oven and one 40-oven non-recovery coke batteries A and B, and one 60-oven and one 40-oven non-recovery coke batteries C and D, identified in its PSD permit as units P901 and P902, respectively.

11. SO₂ CEM designated S239 for unit P901 was certified by Ohio EPA on June 30, 2005.
12. Part III Section A(I)(1) of the PSD Permit effective December 11, 2003, limits SO₂ emissions from unit P901 to 422.40 lbs/hr, 506.88 lbs/hr as a 3-hour block average, and 770.88 tons/year.
13. Part III Section A(I)(1) of the PSD Permit underwent administrative modification effective June 27, 2006 to revise limits on SO₂ emissions from unit P901 waste gas stack to 192 lbs/hour as a 3-hour block average, and 700.80 tons/year.
14. Haverhill North Coke submitted SO₂ CEM Excess Emission Reports for unit P901 to Portsmouth Local Air Agency for the period June 2005 to June 2008. Data is included as Attachment A.
15. On August 18, 2008, January 26, 2007, and October 1, 2008, the Portsmouth Local Air Agency (Portsmouth), sent Haverhill North Coke Notices of Violation alleging violations of malfunction reporting requirements and emissions and monitoring standards for CEM S239 on unit P901.

Violations of Emissions Limits and Operating Standards

Year	Quarter	Total Operation (minutes)	Total Downtime (minutes)	Total Non Exempt Excess Emissions (minutes)	Downtime Percentage of Quarter	Excess Emissions Percentage of Quarter
2005	3	132480	22200	0	16.76	0
2005	4	132480	23820	0	17.98	0
2006	1	129600	12960	0	10.00	0
2006	2	131040	3480	1080	2.656	0.824
2006	3	132480	6660	33840	5.027	25.54
2006	4	132480	1260	0	0.951	0
2007	1	129600	1560	900	1.204	0.694
2007	2	131040	3480	240	2.656	0.183
2007	3	132480	660	1260	0.498	0.951
2007	4	132480	6540	6300	4.937	4.755
2008	1	131040	6360	1440	4.853	1.098
2008	2	131040	9060	0	6.914	0

16. Haverhill North Coke's CEM downtime for unit P901 constitutes failure to continuously comply with CEM standards as required by its PSD permit and is therefore a violation of its PSD permit, the Ohio SIP, and PSD regulations promulgated in 40 C.F.R. § 52.21.

17. Haverhill North Coke's excess SO₂ emissions from unit P901 are violations of its PSD permit and the Ohio SIP.
18. Haverhill North Coke's excess SO₂ emissions during the third quarter of 2006 are violations of 40 C.F.R. 63.6(e)(1)(i).

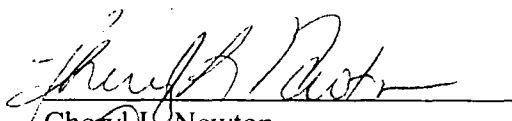
Violation of Malfunction Reporting Requirements

19. Haverhill North Coke's July 6th 2008 Coke Screening Baghouse malfunction was not immediately reported to Ohio EPA and is therefore a violation of its PSD permit and the Ohio SIP.
20. Haverhill North Coke's February 8th 2008 atomizer malfunctions were not immediately reported to Ohio EPA and are therefore violations of its PSD permit and the Ohio SIP.

Environmental Impact of Violations

21. Excess emissions of SO₂ increase the amount of acid rain and public exposure to unhealthy levels of SO₂. SO₂ reacts with other chemicals in the air to form tiny sulfate particles. Long term exposure to high levels of SO₂ gas and particles can cause respiratory illness, aggravate existing heart disease, and lead to premature death.

12/8/08
Date


Cheryl L. Newton
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Notice and Finding of Violation, No. EPA-5-09-OH-02, by Certified Mail, Return Receipt Requested, to:

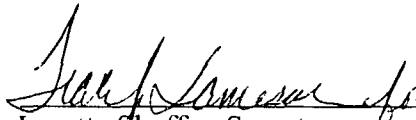
Haverhill North Coke Company
Stanley Wash
2446 Gallia Pike
Franklin Furnace, Ohio 45629

I also certify that I sent copies of the Notice of Violation and Finding of Violation by first class mail to:

Cindy Charles
Portsmouth Local Air Agency
605 Washington Street, Third Floor
Portsmouth, Ohio, 45662

John Paulian
OH EPA – DAPC
Lazarus Government Center
PO Box 1049
Columbus, Ohio, 43215

on the 10 day of December, 2008.



Loretta Shaffer, Secretary
AECAS, MN-OH

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0000 0186 1757